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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,282	03/25/2004	Reinhold Burr	228181	6041

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EXAMINER

KOSANOVIC, HELENA

ART UNIT	PAPER NUMBER
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3749

MAIL DATE	DELIVERY MODE
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05/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/809,282	Applicant(s) BURR ET AL.	
	Examiner Helena Kosanovic	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 17-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 17-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's amendments filed 3/26/2007 are acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 17-18, 22-26 and 30-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Maurizio DE 19717335.

Maurizio teaches the invention as claimed: a device/flap 1 for ventilating passenger cabin in the car having at least one control valve 1 with at least one edge 2, 7 overflowed with air that can be moved from first to second position wherein overflow edges 2, 7, have a changing cross sectional profile (fig. 1) for diverting at least a portion of the airflow into a plurality of airstreams dividing from the main flow direction, and having a plurality of flow bodies (uprising unnumbered element between elements 3 and 7, fig. 1) in the overflowed edge area (abstract, ll. 11-12, figs. 2-8).

Regarding claim 17, the flow bodies are selected from a group of structures comprising turbulence generators, pinnacles, calottes, spherical calottes, nubs, pyramids, indentations, gratings, grating sections, and cylinders (fig. 1).

Regarding claim 18, the plurality of flow bodies is arranged at a predetermined angle (fig. 2) in relation to the overflowing edge area.

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Regarding claim 22, the overflowed edge area includes a sealing edge 7 that is capable of substantially closing an airflow path (Abstract, ll. 4-7).

Regarding claims 23 and 30, the control valve includes reinforcing ligaments 3.

Regarding claims 24 and 31, the invention further comprising a second control valve/flat and curvilinear baffle arranged adjacent to the first control valve/ flat and curvilinear baffle on the same rotational axis (fig. 1) wherein the first and second control valve is defined by unnumbered central line, perpendicular to the shaft 2, which divides element 1 on left and right part or the first and the second valve, the same way as Applicant does.

Regarding claim 25, a control mechanism (fig. 1) for use in a motor vehicle ventilation system, comprising: a substantially flat and curvilinear baffle 1 mounted to an axis (unnumbered shaft on fig. 1) and rotatable within an air flow path between an open position and closed position, wherein the baffle when rotated into the open position allows air flow within the path and when rotated into the closed position prevents air flow within the path; and a plurality of flow bodies (unnumbered uprising element between elements 3 and 7 on fig. 1) attached at a predetermined angle to at least one edge of the baffle, wherein flow bodies define flow pathways through which a portion of the air flowing over the edge of the baffle in a main flow direction may be diverted (said unnumbered rising element is capable to divert airflow).

Regarding claim 26, a control mechanism for use in a motor vehicle ventilation system (fig. 1), comprising: a substantially flat and curvilinear baffle mounted to an axis (unnumbered shaft on fig. 1) and rotatable within an air flow path, which baffle includes

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a first sealing edge 4 and a second sealing edge (unnumbered edge perpendicular to the edge 4 on figure 1) that cooperate to substantially seal a flow path when the baffle is rotated into a closed position (Abstract, ll. 4-7). ; and a plurality of ribs (unnumbered uprising element between elements 3 and 7 on fig. 1) attached at a predetermined angle to the first sealing edge of the baffle.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19-20 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurizio DE 19717335.

Maurizio teaches the invention as discussed above, but is not specific about an angle.

Regarding the angle limitation the courts have held that where general condition of claim is disposed in the prior art (fig.1), it is not inventive to discover the optimum or workable range (MPEP 2144.05 IIa). In this case unnumbered rising element is angled to some degree compared to lip 4 on figure 1, according to the court it is not inventive to discover the optimum or workable range of angles.

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3. Claims 21 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurizio DE 19717335 in view of Kaszycki 2005/0170769.

Maurizio teaches the invention as discussed above but is not specific about overflowed edge made of injection molded.

Kaszycki expressly teaches injection molded piece forming an edge that is attached to the control door in the car (paragraph 0008).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an injected molded piece for the overflowed edge, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. (See *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied Industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. Also MPEP 2144.07).

Response to Arguments

Applicant's arguments filed 3/26/2007 have been fully considered but they are not persuasive.

Regarding Applicant's argument that the Maurizio reference does not recite that overflowed edge includes a plurality of flow bodies in the overflow area, the examiner disagrees, because from figure 1 is clear that overflow edge 4 having an unnumbered, uprising bodies that lay between element 3 and element 4. Therefore claimed limitation is met.

Regarding Applicant's argument that "overflowed edge is injection molded, the overflowed edge area includes a sealing edge that is capable of substantially closing an air flow path, the control valve includes reinforcing ligaments, and/or a second control valve is arranged adjacent to the first control valve on the same rotational axis. These claimed features are neither expressly nor inherently described by Maurizio." The examiner disagrees, because all of argued limitations are discussed in paragraph above, of this office action.

Regarding ligament argument, as noted above element 3 of Maurizio is considered the recited ligament.

Therefore the instant application is not distinct from the applied prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helena Kosanovic whose telephone number is (571)272-9059. The examiner can normally be reached on 8:30-5:00, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Helena Kosanovic
Examiner
Art Unit 3749
5707


JOSIAH C. COCKS
PRIMARY EXAMINER